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**HOUSE BILL 444**

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

**INTRODUCED BY**

**Fred Luna**

**AN ACT**

**RELATING TO HEALTH INSURANCE; IMPOSING A HEALTH INSURANCE  
PREMIUM SURTAX ON INSURANCE PREMIUMS, INCLUDING HOSPITAL AND  
NONPROFIT HEALTH CARE SERVICE PLAN CONTRACTS; AMENDING A  
SECTION OF THE NMSA 1978.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 59A-6-2 NMSA 1978 (being Laws 1984,  
Chapter 127, Section 102, as amended) is amended to read:**

**"59A-6-2. PREMIUM TAX--HEALTH INSURANCE PREMIUM SURTAX. --**

**A. The premium tax provided for in this section  
shall apply as to the following taxpayers:**

**(1) each insurer authorized to transact  
insurance in New Mexico;**

**(2) each insurer formerly authorized to  
transact insurance in New Mexico and receiving premiums on**

underscored material = new  
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1 policies remaining in force in New Mexico, except that this  
2 provision shall not apply as to an insurer that withdrew from  
3 New Mexico prior to March 26, 1955;

4 (3) each plan operating under provisions of  
5 Chapter 59A, Articles 46 through 49 NMSA 1978;

6 (4) each property bondsman, as that person is  
7 defined in Section 59A-51-2 NMSA 1978, as to any consideration  
8 received as security or surety for a bail bond in connection  
9 with a judicial proceeding, which consideration shall be  
10 considered "gross premiums" for the purposes of this section;  
11 and

12 (5) each unauthorized insurer that has assumed  
13 a contract or policy of insurance directly or indirectly from  
14 an authorized or formerly authorized insurer and is receiving  
15 premiums on such policies remaining in force in New Mexico,  
16 except that this provision shall not apply if a ceding insurer  
17 continues to pay the tax provided in this section as to such  
18 policy or contract.

19 B. Each such taxpayer shall pay in accordance with  
20 this subsection a premium tax of three and three-thousandths  
21 percent of the gross premiums and membership and policy fees  
22 received by it on insurance or contracts covering risks within  
23 this state during the preceding calendar year, less all return  
24 premiums, including dividends paid or credited to policyholders  
25 or contract holders and premiums received for reinsurance on

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underscored material = new  
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1 New Mexico risks.

2 C. In addition to the premium tax imposed pursuant  
3 to Subsection B of this section, each taxpayer described in  
4 Subsection A of this section that transacts health insurance in  
5 New Mexico or is a plan described in Chapter 59A, Article 46 or  
6 47 NMSA 1978 shall pay a health insurance premium surtax of one  
7 percent of the gross health insurance premiums and membership  
8 and policy fees received by it on ~~[health insurance or~~  
9 ~~contracts, excluding disability income insurance or contracts]~~  
10 hospital and medical expense incurred insurance or contracts;  
11 nonprofit health care service plan contracts, excluding dental  
12 or vision only contracts; and health maintenance organization  
13 subscriber contracts covering health risks within this state  
14 during the preceding calendar year, less all return health  
15 insurance premiums, including dividends paid or credited to  
16 policyholders or contract holders and health insurance premiums  
17 received for reinsurance on New Mexico risks. Except as  
18 provided in this section, all references in the Insurance Code  
19 to the premium tax shall include both the premium tax and the  
20 health insurance premium surtax.

21 D. For each calendar quarter, an estimated payment  
22 of the premium tax and the health insurance premium surtax  
23 shall be made on April 15, July 15, October 15 and the  
24 following January 15. The estimated payments shall be equal to  
25 at least one-fourth of either the payment made during the

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1 previous calendar year or eighty percent of the actual payment  
2 due for the current calendar year, whichever is greater. The  
3 final adjustment for payments due for the prior year shall be  
4 made with the return, which shall be filed on April 15 of each  
5 year, at which time all taxes for that year are due. Dividends  
6 paid or credited to policyholders or contract holders and  
7 refunds, savings, savings coupons and similar returns or  
8 credits applied or credited to payment of premiums for  
9 existing, new or additional insurance shall, in the amount so  
10 used, constitute premiums subject to tax under this section for  
11 the year in which so applied or credited.

12 E. Exempted from the taxes imposed by this section  
13 are:

14 (1) premiums attributable to insurance or  
15 contracts purchased by the state or a political subdivision for  
16 the state's or political subdivision's active or retired  
17 employees; and

18 (2) payments received by a health maintenance  
19 organization from the federal secretary of health and human  
20 services pursuant to a contract issued under the provisions of  
21 42 U.S.C. Section 1395 mm(g). "